

FUJR 18,275
09/773,339REMARKS

This amendment is in response to the Examiner's Office Action dated 3/28/2005. Reconsideration of this application is respectfully requested in view of the foregoing amendment and the remarks that follow.

STATUS OF CLAIMS

Claims 1-18 are pending.

Claims 1-4 and 10-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ginossar (USP 6,477,143).

Claims 5-9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gao et al. (USP 5,548,533).

OVERVIEW OF CLAIMED INVENTION

The presently claimed invention provides for a communication apparatus and a server unit comprising: a congestion monitoring means for monitoring a congestion state, setting a congestion level and determining whether or not to perform regulation based on said congestion level; a traffic measuring means for measuring a traffic intensity; a traffic comparison means for comparing said traffic intensity with a preset traffic-regulation start traffic intensity when it is determined that regulation is to be performed; and a regulation control means for performing traffic regulation control when a comparison result shows that said traffic intensity is equal to or greater than said traffic-regulation start traffic intensity, and performing regulation control on a maintenance and operation process when said traffic intensity is smaller than said traffic-regulation start traffic intensity.

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09/773,339REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-4 and 10-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ginossar (USP 6,477,143). To be properly rejected under 35 U.S.C. § 102(e), each and every element of the claims must be disclosed in a single cited reference. The applicant, however, contends that the presently claimed invention cannot be anticipated in view of the Ginossar reference.

The Ginossar reference teaches a method for congestion control and avoidance in computer networks, wherein the method comprises the steps of: sensing network congestion; and allowing a network node to transmit at least one basic data segment and thereafter to transmit additional data, the quantity of said additional data being a function of the basic data segment, wherein the size of the basic data segment is determined at least in part by sensed network congestion. It should be noted that the term "sensing network congestion", as defined in the Ginossar reference in column 8, lines 50-53, refers to "sensing and predicting possible future network congestion".

With respect to independent claims 1, 10, 14, and 15, the examiner, on pages 2-4 of the office action of 03/28/2005, states that column 9, line 44 – column 10, line 30, column 11, line 19 – column 15, line 6, column 16, line 3 – column 19, line 35, and column 15, lines 64-column 16, line 4 of the Ginossar reference teaches the limitation of "performing traffic regulation control when a comparison result shows that said traffic intensity is equal to or greater than said traffic-regulation start traffic intensity, and performing regulation control on a maintenance and operation process when said traffic intensity is smaller than said traffic-regulation start traffic

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intensity". Applicants respectfully disagree with the examiner as a closer reading of the citations show otherwise.

Specifically, applicants contend that the specific citations merely describe the transmission of a data segment wherein the size of the data segment is chosen to "avoid predicted future congestion". The examiner appears to equate "congestion indicator" of the Ginossar reference to "traffic intensity" of applicants' invention. Additionally, the examiner appears to equate "a maximum segment size threshold" (see page 5 of office action) with applicants' "preset traffic regulation start traffic intensity", as taught in independent claims 1, 10, 14, and 15. Applicants wish to note that a comprehensive reading of the Ginossar reference fails to reveal a "maximum segment size threshold" or any "threshold" associated with the "maximum size segment". On the contrary, the citations and the Ginossar reference in its entirety merely teach a maximum data segment size that a receiving node can receive.

Assuming arguendo that Ginossar's "congestion indicator" corresponds to applicants' "traffic intensity" and Ginossar's "maximum segment size" corresponds to applicants' "preset traffic regulation start traffic intensity", applicants wish to note that the Ginossar reference fails to teach or suggest the limitation of "comparing" the "congestion indicator" against the "maximum segment size", wherein traffic regulation is performed if the "congestion indicator" is greater than or equal to the "maximum segment size", and regulation control on a maintenance and operation process is performed if the "congestion indicator" is less than the "maximum segment size".

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Therefore, it is submitted that Ginossar fails to teach or suggest at least the limitation of a regulation control means for performing traffic regulation control when a comparison result shows that said traffic intensity is equal to or greater than said traffic-regulation start traffic intensity, and performing regulation control on a maintenance and operation process when said traffic intensity is smaller than said traffic-regulation start traffic intensity. Hence, the examiner is hereby respectfully requested to withdraw the rejections with respect to claims 1, 10, 14, and 15.

If the examiner feels that Ginossar's "congestion indicator" and "maximum segment size" still remedies both the "traffic regulation" and "regulation control" limitations, applicant respectfully reminds the examiner that it is the duty of the examiner to specifically point out each and every limitation of a claim being rejected as per §1.104(c)(2) of Title 37 of the Code of Federal Regulations and section 707 of the M.P.E.P., which explicitly states that "the particular part relied on must be designated" and "the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified."

The above-presented arguments with respect to independent claims 1, 10, 14, and 15 substantially apply to dependent claims 2-4, 11-13, and 16-18 as they inherit all the limitations of the claim from which they depend. Hence, the examiner is hereby respectfully requested to withdraw the rejections with respect to dependent claims 2-4, 11-13, and 16-18.

Independent claims 5 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gao et al. (USP 5,548,533). To be properly rejected under 35 U.S.C. § 102(e), each and every element of the claims must be disclosed in a single cited reference. The applicant, however,

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contends that the presently claimed invention cannot be anticipated in view of the Gao et al. reference.

Gao et al. provides overload control for a central processor (which may be part of a Mobile services Switching Center (MSC)) in the switching network of a mobile radio system. According to Gao et al., congestion reports, based on the delay experienced by messages awaiting processing at the central processor, are broadcast to peripheral processors and the peripheral processors maintain variable message origination thresholds responsive to the congestion reports.

With respect to independent claims 5 and 9, the examiner, on pages 3-4 and 6-7 of the office action states that column 3, lines 5 – column 4, lines 65, column 5, line 1 – column 6, line 34, and column 7, line 1 – column 8, line 48 of the Gao et al. reference teaches the limitation of “performing traffic regulation control when a comparison result shows that said traffic intensity is equal to or greater than said traffic-regulation start traffic intensity, and performing regulation control on a maintenance and operation process when said traffic intensity is smaller than said traffic-regulation start traffic intensity”. Applicants respectfully disagree with the examiner as a closer reading of the citations show otherwise.

Specifically, applicants contend that the citations and the entire Gao reference merely teaches overload detection (by a processor), with an overload broadcast message being sent to peripheral processors. The examiner, in the office action of 03/28/2005, has equated Gao et al.’s “congestion status” to the present invention’s “traffic intensity”. The examiner has also equated Gao et al.’s “threshold” to applicants’ “traffic regulation start traffic intensity”. Assuming

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arguendo that Gao et al.'s "congestion status" corresponds to applicants' "traffic intensity" and Gao et al.'s "threshold" corresponds to applicants' "preset traffic regulation start traffic intensity", applicants wish to note that the Gao et al. reference fails to teach or suggest the limitation of "comparing" the "congestion status" against the "threshold", wherein traffic regulation is performed if the "congestion status" is greater than or equal to the "threshold", and regulation control on a maintenance and operation process is performed if the "congestion status" is less than the "threshold".

Therefore, it is submitted that Gao et al. fail to teach or suggest at least the limitation of a regulation control means for performing traffic regulation control when a comparison result shows that said traffic intensity is equal to or greater than said traffic-regulation start traffic intensity, and performing regulation control on a maintenance and operation process when said traffic intensity is smaller than said traffic-regulation start traffic intensity. Hence, the examiner is hereby respectfully requested to withdraw the rejections with respect to claims 5 and 9.

If the examiner feels that Gao et al.'s "congestion status" and "threshold" still remedies both the "traffic regulation" and "regulation control" limitations, applicant respectfully reminds the examiner that it is the duty of the examiner to specifically point out each and every limitation of a claim being rejected as per §1.104(c)(2) of Title 37 of the Code of Federal Regulations and section 707 of the M.P.E.P., which explicitly states that "the particular part relied on must be designated" and "the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified."

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The above-presented arguments with respect to independent claim 5 substantially applies to dependent claims 6-8 as they inherit all the limitations of the claim from which they depend. Hence, the examiner is hereby respectfully requested to withdraw the rejections with respect to dependent claims 6-8.

SUMMARY

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of applicant's presently claimed invention, nor renders them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

This amendment is being filed with a petition for extension of time. The Commissioner is hereby authorized to charge the petition fee, as well as any deficiencies in the fees provided to Deposit Account No.50-1290.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact applicant's representative at the below number.

Respectfully submitted,



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